



## LEXIS Document Services

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RECORDATION NO. 18716-L FILED

APR 30 '02

9-52 AM

April 26, 2002

### SURFACE TRANSPORTATION BOARD

Taledia Stokes  
Surface Transportation Board  
Recordation Office  
1925 K Street, N.W., Suite 70  
Washington D.C. 20423

Dear Taledia,

Enclosed are two (2) originals of the **Release and Termination agreement** dated as of February 28, 2002 between the following parties:

Names and address of the following parties:

Lessor: **HERO LEASING, LIMITED PARTNERSHIP**  
4 World Financial Center, 24<sup>th</sup> Flr., New York, NY 10080

Lessee: **MIDWEST GENERATION, LLC**  
440 South LaSalle, Suite 3500, Chicago, IL. 60605

### A short summary of the document to appear in the index follows:

Memorandum of Railcar Lease between Lessor: **HERO LEASING, LIMITED PARTNERSHIP** and Lessee: **MIDWEST GENERATION, LLC.**, covering 3 coal porters with reporting marks and numbers – CWEX 2579 – CWEX 2760, NOT INCLUSIVE.

Please file this memorandum as a **SECONDARY** document to Recordation #18716-F, 18716-A, 18716-I, 18716-E, 18716-J, 18716-B AND 18716-G and return one (1) stamped original to my attention. A check covering the filing fee of thirty dollars (\$30.00) is enclosed.

If you have any questions regarding the filing, please feel free to call me at 800-634-9738 ext. 20100.

Thank you for your prompt assistance.

Sincerely,

Sherry Lewey  
Research/Development Coordinator

Enclosure

APR 30 '02

9-52 AM

## RELEASE AND TERMINATION AGREEMENT

SURFACE TRANSPORTATION BOARD

THIS RELEASE AND TERMINATION AGREEMENT, dated February 28, 2002, between Hero Leasing, Limited Partnership, as Lessor ("Lessor"), and Midwest Leasing Equipment Corp., as Lessee ("Lessee"), 440 South LaSalle, Suite 3500, Chicago IL 60605  
4 World Financial Center, 24th Flr New York, NY 10080

WITNESSETH:

WHEREAS, Lessor and Lessee have heretofore entered into an Amended, Restated and Consolidated Lease Agreement dated as of December 15, 1999 (the "Lease") (capitalized terms used herein without definitions having the respective meanings set forth in the Lease);

WHEREAS, in accordance with Section 15(c) of the Lease, Lessee on the Effective Date (as defined in paragraph 6 hereof) has paid to Lessor the Adjusted Acquisition Cost in respect of a certain item of Equipment;

NOW, THEREFORE, in consideration of the premises and for good and sufficient consideration, Lessor and Lessee hereby agree as follows:

1. The items of Equipment subject to this Release and Termination Agreement (the "Railcars") are identified on Schedule 1 hereto. The parties hereto hereby agree to release the Railcars from the coverage of the Lease and any other documents recorded with a governmental body under Applicable Law.
2. Lessor acknowledges either compliance by Lessee with Section 15(c) of the Lease or hereby waives compliance by Lessee with Section 15(c) of the Lease; accordingly, Lessor agrees to sell, assign, transfer, convey and deliver unto Lessee, without recourse or warranty, all right, title and interest of Lessor in and to (a) the Railcars (including all appliances, parts, instruments, appurtenances, accessories, furnishings, and/or other equipment or property installed on or attached thereto) and all manufacturer's warranties relating thereto and (b) all other warranties and indemnities relating to the Railcars held by Lessor pursuant to those certain Bills of Sale dated February 24, 1994 and March 9, 1994 delivered by Johnstown America Corporation to the Lessor, by executing a Bill of Sale dated as of the Effective Date substantially in the form of Exhibit A hereto.
3. The Lessee shall record this Release and Termination Agreement with the United States Surface Transportation Board.
4. Each party hereto will, at Lessee's cost and expense, promptly and duly execute and deliver such further documents to, make such further assurances for and take such further action reasonably requested by any party hereto, all as may be necessary to carry out more effectively the intent and purpose of this Release and Termination Agreement.

5. This Release and Termination Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

6. The parties hereto agree that this Release and Termination Agreement shall become effective on February 26, 2002 (the "Effective Date") upon Lessor's receipt of the Adjusted Acquisition Cost in respect of the Railcars.

7. THIS RELEASE AND TERMINATION AGREEMENT SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY OR PERFORMANCE.

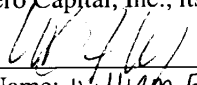
8. The Lessor's obligations hereunder are intended to be the obligations of the limited partnership and of the corporation which is the general partner thereof only and no recourse for the payment of any amount due under this Release and Termination Agreement or for any claim based thereon or otherwise in respect thereof shall be had against any limited partner of the Lessor or any incorporator, shareholder, officer, director or Affiliate, as such, past, present or future of such corporate general partner or of any corporate limited partner or of any successor corporation to such corporate general partner or any corporate limited partner of the Lessor or any subsidiary or Affiliate of any such direct or indirect parent corporation or any incorporator, shareholder, officer or director, as such, past, present or future, of any such parent or other subsidiary or Affiliate, it being understood that the Lessor is a limited partnership formed for the purpose of the transactions involved in and relating to this Lease in the express understanding aforesaid.

[signature page follows]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Release and Termination Agreement to be duly executed on the date and year set forth in the opening paragraph hereof, all of which shall become effective on the terms described in paragraph 6 hereof.

Lessor

HERO LEASING, LIMITED PARTNERSHIP  
by Hero Capital, Inc., its General Partner

By:   
Name: William Fuhs  
Title: President

Lessee

MIDWEST GENERATION, LLC

By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, Lessor and Lessee have caused this Release and Termination Agreement to be duly executed on the date and year set forth in the opening paragraph hereof, all of which shall become effective on the terms described in paragraph 6 hereof.

Lessor

HERO LEASING, LIMITED PARTNERSHIP  
by Hero Capital, Inc., its General Partner

By: \_\_\_\_\_  
Name:  
Title:

Lessee

MIDWEST GENERATION, LLC

By: R Michael Bales  
Name: R Michael Bales  
Title: Director, Fuels

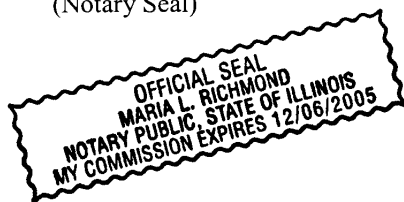
STATE OF ILLINOIS )  
 ) ss.:  
COUNTY OF COOK )

On this 26<sup>th</sup> day of February \_\_, 2002, before me personally appeared Michael Bates, to me personally known, who, being by me duly sworn, says that he is Director, Fuels of MW Gen, that said instrument was signed and sealed on behalf of said limited liability company by authority of such limited liability company and he acknowledged that the execution of the foregoing instrument was the free act and deed of said limited liability company.

Maria L. Richmond  
Notary Public

My Commission Expires: 12/6/05

(Notary Seal)



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

On this 28<sup>th</sup> day of February \_\_, 2002, before me personally appeared William Fuhs, to me personally known, who, being by me duly sworn, says that he is President of HeadLosing, Limited Partnership, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jane E. Sergi  
Notary Public

My Commission Expires: 2003

(Notary Seal)

JANE E. SERGI  
Notary Public, State of New York  
No. 4888596  
Qualified in Westchester County  
Term Expires March 30, 2003



SCHEDULE 1  
to  
Release and Termination Agreement

Items of equipment no longer covered by the Amended, Restated and Consolidated Lease Agreement, Unit Leasing Record No. 1, Amendment No. 1 to Unit Leasing Record and Confirmation of Assumption of Unit Leasing Record (relating to ULR No. 1), Unit Leasing Record No. 2, Amendment No. 1 to Unit Leasing Record and Confirmation of Assumption of Unit Leasing Record (relating to ULR No. 2), the Security Agreement and Amendment No. 1 to Security Agreement, having been assigned recordation numbers 18716-F, 18716-A, 18716-I, [18716-E], 18716-J, 18716-B and 18716-G, respectively:

1. Aluminum Bethgon Coalporter Car  
"Coalporter" Car Bearing  
The Following Identification Mark:

CWEX 2579

2. Aluminum Bethgon Coalporter Car  
"Coalporter" Car Bearing  
The Following Identification Mark:

CWEX 2646

3. Aluminum Bethgon Coalporter Car  
"Coalporter" Car Bearing  
The Following Identification Mark:

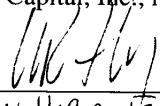
CWEX 2760

BILL OF SALE

Pursuant to Section 15(c) of the Amended, Restated and Consolidated Lease Agreement dated as of December 15, 1999 (the "Lease Agreement") between Hero Leasing, Limited Partnership, as lessor (the "Lessor"), and Midwest Generation, LLC, as lessee (the "Lessee"), for good and valuable consideration the receipt of which is hereby acknowledged, the Lessor does hereby sell, assign, transfer, convey and deliver unto the Lessee, "as-is" and "where-is", without recourse or warranty, all right, title and interest of the Lessor in and to (a) the equipment described on Schedule 1 hereto, including all appliances, parts, instruments, appurtenances, accessories, furnishings, and/or other equipment installed on or attached to such railcars (the "Equipment"), and all manufacturer's warranties relating thereto and (b) all other warranties and indemnities relating to the Equipment held by the Lessor pursuant to those certain Bills of Sale dated February 24, 1994 and March 9, 1994 delivered by Johnstown America Corporation to the Lessor (the "Other Property").

IN WITNESS WHEREOF, the Lessor has caused this Bill of Sale to be duly executed and delivered as of this 28<sup>th</sup> day of February, 2002.

HERO LEASING, LIMITED PARTNERSHIP  
by Hero Capital, Inc., its General Partner

By:   
Name: William Fuchs  
Title: president